

Republic of the Philippines
ENERGY REGULATORY COMMISSION
San Miguel Avenue, Pasig City



**IN THE MATTER OF THE
APPLICATION FOR
AUTHORITY TO DEVELOP
AND OWN OR OPERATE
DEDICATED POINT-TO-
POINT LIMITED FACILITIES
TO CONNECT THE 5.0 MW
BIOMASS POWER PLANT TO
THE NAGA-LAGONOY 69 KV
LINE, WITH PRAYER FOR
PROVISIONAL AUTHORITY,**

ERC CASE NO. 2016-016 MC

**BICOL BIOMASS ENERGY
CORPORATION (BBEC),
Applicant.**

X ----- X

D O C K E T E D
Date: NOV 03 2017
By: [Signature]

D E C I S I O N

Before the Commission for resolution is Bicol Biomass Energy Corporation's (BBEC) *Application* filed on 17 June 2016, seeking the Commission's approval for authority to develop and own or operate dedicated point-to-point limited facilities to connect the 5.0 MW Biomass Power Plant to the Naga-Lagonoy 69 kV Line, South Luzon Grid, with prayer for provisional authority.

In the said *Application*, BBEC alleged the following:

1. BBEC is a domestic corporation duly organized and existing under and by virtue of Philippine laws with principal business address at New San Roque, Pili, Camarines Sur.

Copies of BBEC's (a) Certificate of Registration, (b) Articles of Incorporation, (c) 2015 General Information Sheet with list of corporate officers, and, (d) latest Financial Statements are here attached, to become integral parts hereof, and are marked as Annexes "A", "B", "C", and, "D", respectively.

2. BBEC may be served with Decisions, Orders, documents, and other pleadings and processes at 2nd Floor, DECA Corporate Center, Panganiban Drive, Naga City, 4400, Philippines.

NATURE OF THE APPLICATION

3. This Application seeks the consideration and approval of this Honorable Commission of BBEC's proposed development, ownership, or, operation of interconnection facilities which shall connect BBEC's biomass power plant with a 5.0 MW gross electric located at New San Roque, Pili, Camarines Sur ("Biomass Power Plant") to the South Luzon Grid through the Naga-Lagonoy 69 kV line owned by the National Grid Corporation (NGCP).

3.1. Section 2.9.2 of the Distribution Services and Open Access Rules (DSOAR) allows a generation company to undertake this project but requires the prior authorization of this Honorable Commission, thus:

A generation company may develop and own or operate dedicated point-to-point limited facilities provided, that such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC (underscoring supplied for emphasis).

3.2. The last paragraph of Section 9 of the Electric Power Industry Act of 2001 (R.A. No. 9136) provides the same requirement, to wit:

Section 9. Functions and Responsibilities. – x x x.

A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TDP: Provided, That such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC: x x x .

3.3. Hence, this Application.

STATEMENT OF FACTS

4. BBEC, by virtue of the Biomass Renewable Energy Operating Contract No. 2013-09-03 ("BREOC") dated 27 November 2013, was appointed and constituted by the Department of Energy (DOE) as the party having the exclusive right to explore, develop, and utilize biomass energy resources within Pili, Camarines Sur. On 5 June 2014, BREOC No. 2013-09-03 was amended to increase the power output from 3.5 MW to 5.0 MW gross electric, thereby appointing BBEC to "generate electrical power from Biomass RE system using Rice Hull as feedstock in New San Roque, Pili, Camarines Sur".

Copies of the Biomass Renewable Energy Operating Contract No. 2012-09-03 is here attached, marked as Annex "E", as well as the 5 June 2014 amended BREOC, marked as Annex "E-1", and made integral parts hereof.

5. The Amended BREOC was executed by and between the Republic of the Philippines, through the DOE, and, Bicol Biomass Energy Corporation (BBEC). On 29 October 2013, DOE issued in favor of BBEC a Certificate of Registration, copy of which is here attached and marked as Annex "F", to become an integral part hereof.

6. Pursuant to the Amended BREOC, BBEC is developing and constructing the biomass power plant, which is situated at New San Roque, Pili, Camarines Sur and has a 5.0 MW gross electric.

7. To connect BBEC to the Luzon grid through the Naga-Lagonoy 69 kV line, BBEC developed and constructed a dedicated point-to-point facility ("Dedicated Facility Project"). A copy of the 2 May 2016 BBEC Board Resolution, as certified by its Corporate Secretary containing the particulars thereof is here attached, marked as Annex "G", to become integral part hereof.

8. The Dedicated Facility Project is the most cost-effective and viable option to connect BBEC to the South Luzon Grid.

8.1. The Naga-Lagonoy 69 kV line is the closest Transmission Line from BBEC's switchyard. The length of the line needed to connect the switchyard to the tapping point is only approximately 1,700 meters, and the construction of the Dedicated Facility Project, including civil and electromechanical works had in fact been finished already. The plans and specifications, including the photographs of the completed project are here attached, marked as Annexes "H" to "H-1", to become integral parts hereof.

8.2. The National Grid Corporation of the Philippines (NGCP) shall be in charge of the operation, service, and maintenance of the metering facility.

9. BBEC had submitted a draft of the System Impact Study (SIS) to the National Grid Corporation of the Philippines (NGCP), which as of date, had completed the technical review of the SIS, copies of which are here attached, marked as Annexes "I" and "I-1", and to become integral part hereof. Based on the SIS, "the entry of the 5.0 MW biomass power plant to the South Luzon Grid is technically feasible". BBEC undertakes to execute the transmission reinforcements necessary to prevent any possible adverse effects of its entry upon the grid. BBEC undertakes further to comply with the conditions set forth in the "Final Review Report of the Third Party SIS for the 2x5MW Biomass Power Plant", copy of which is here attached marked as Annex "I-2", and to become integral part hereof.

10. Since the SIS had already been approved, BBEC had executed a Connection Agreement dated 01 February 2016, copy which is here attached marked as Annex "J" and to become integral part hereof. BBEC, at present is initiating negotiations to execute the Metering Service Agreement and Transmission Service Agreement with the NGCP.

11. The Proposed Facilities Study, dated 9 March 2015, which had been reviewed by the NGCP is here attached, marked as Annex "K", to become integral part hereof. The Review Report by the NGCP of the facilities study is likewise here attached, marked as Annex "K-1", and to become integral part hereof.

12. The Point-to-point limited facility that BBEC has developed and constructed is for the sole and exclusive purpose of connecting the Biomass Power Plant to the transmission system of NGCP. The same shall be exclusively used by BBEC as a generating facility.

13. As of the present, BBEC had secured and will secure the necessary permits, licenses and authority from other regulatory agencies.

ALLEGATIONS IN SUPPORT OF THE PRAYER FOR PROVISIONAL AUTHORITY

14. The demand for electricity in Luzon has an Average Annual Growth Rate of 4.13 percent, on the basis of the 2013 Supply-Demand Outlook of the DOE. To avoid debilitating power outages in Luzon which will certainly inconvenience consumers and which shall indeed adversely affect investment, it is important to ensure that generation facilities are able to distribute sufficient power to meet the demand as it arises.

15. It ought to be emphasized that it is the avowed policy of the State to "accelerate the exploration and development of renewable energy resources such as, but not limited to, biomass, solar, wind, hydro, geothermal and ocean energy sources, including hybrid systems, to achieve energy self-reliance, through the adoption of sustainable energy development strategies to reduce the country's dependence on fossil fuels and thereby minimize the country's exposure to price fluctuations in the international markets, the effects of which spiral down to almost all sectors of the economy" (Section 2[a], RA 9513).

16. Further, the Renewable Energy Act of 2008 (Republic Act No. 9513) mandates that BBEC, being a generating unit utilizing intermittent energy resource, shall enjoy the priority of energy dispatch (Section 20, RA 9513).

17. Connecting BBEC's switchyard to the Naga-Lagonoy 69 kV Line is a prerequisite to the commercial operations of the biomass power plant. It is only in line with the policy of the State to grant BBEC provisional authority to develop and own or operate the dedicated point-to-point facility to connect BBEC to the South Luzon Grid so it could commence commercial operations the soonest possible time.

18. There is therefore, we most respectfully submit, a sufficient basis for the issuance of a provisional authority pending the issuance of a final decision on the merits of this Application.

PRAYER

WHEREFORE, premises considered, BBEC most respectfully prays of this Honorable Commission:

- (1) To issue an Order provisionally authorizing BBEC to develop, own or operate the Dedicated Facility Project; and,
- (2) after due hearing on the merits, to render a Decision approving this Application.

Other relief and remedies as are just and equitable under the premises are here prayed for.

The Commission having found the said *Application* sufficient in form and substance with the required fees having been paid, issued an *Order* and a *Notice of Public Hearing*, both dated 19 July 2016, setting the case for initial hearing on 23 August 2016.

In the same *Order*, BBEC was directed to cause the publication of the *Notice of Public Hearing*, at its own expense, once (1x) in a newspaper of general circulation in the Philippines, with the date of publication to be made not later than ten (10) days before the date of the scheduled initial hearing.

The Office of the Solicitor General (OSG), the Commission on Audit (COA), and the Committees on Energy of both Houses of Congress were furnished with copies of the *Order* and the *Notice of Public Hearing*, and were requested to have their respective duly authorized representatives present at the initial hearing.

Likewise, the Offices of the Provincial Governor, the City and Municipal Mayors, and the Local Government Unit (LGU) legislative bodies within the affected area were furnished with copies of the *Order* and *Notice of Public Hearing* for the appropriate posting thereof on their respective bulletin boards.

Applicant BBEC filed on 17 August 2016 its *Pre-trial Brief*, with attached Judicial Affidavit of Nathaniel C. Bertos and Judicial Affidavit of Eddie S. Crescini.

On 23 August 2016, BBEC filed a *Compliance with Jurisdictional Requirements* dated 15 August 2016. During the hearing, BBEC appeared through its counsel and presented proofs of its compliance with the Commission's jurisdictional requirements. The documents were admitted as Applicant's evidence and marked as

Exhibits "A" to "S". No other party in the capacity of intervenor or oppositor appeared.

The expository presentation was delivered by Mr. Michael Justin S. Rillas, Finance Officer of BBEC. Thereafter, the expository presentation was terminated and there being no adverse party, intervenor or oppositor, the Commission adopted the proposed issues and markings contained in the Applicant's Pre-trial Brief.

During the presentation of evidence, Mr. Eddie S. Crescini, Corporate President of BBEC and Mr. Nathaniel C. Bertos of Full Advantage Phils International Inc. were presented as Applicant's witnesses and were made to identify their respective Judicial Affidavits and the signatures therein which were duly marked. The Commission propounded clarificatory questions which the witnesses addressed. Subsequently, the Commission set an ocular inspection and was conducted by the Commission's Inspection Team on 07 September 2016.

On 22 September 2016, BBEC filed its *Formal Offer of Documentary Exhibits* (FOE) dated 17 September 2016.

Finding the exhibits contained in Applicant's FOE relevant and material in the evaluation of this case, the Commission issued an *Order* dated 10 August 2017, admitting the exhibits and declaring the case submitted for resolution.

ISSUE

The issue for the Commission's resolution is whether BBEC should be given authority to develop, own or operate dedicated point-to-point limited facilities to connect the 5.0 MW Biomass Power Plant to the Naga-Lagonoy 69 kV Line.

COMMISSION'S RULING

The Commission grants Applicant BBEC the authority to develop and own dedicated point-to-point limited facilities to connect its 5 MW Biomass Power Plant (BPP) to the Luzon Grid, subject to certain conditions.

DISCUSSION

BBEC is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal business address at New San Roque, Pili, Camarines Sur, Philippines.

BBEC is engaged in the development of clean or renewable energy sources for power generation facilities and was registered by the Department of Energy (DOE) as Renewable Energy Developer of the 5 MW Biomass Power Plant covered by Biomass Renewable Energy Operating Contract No. 2013-09-038 (Service Contract). Likewise, BBEC submitted an application for FIT Eligibility to the DOE. Said application is yet to be approved.

The Application is filed pursuant to Section 9(f) of Republic Act No. 9136 or the "Electric Power Industry Reform Act of 2001" (EPIRA) and Section 5, Rule 5 of its Implementing Rules and Regulations (IRR).

Project Description

The Biomass Power Plant of BBEC will be connected to the Luzon Grid by constructing the subject dedicated point-to-point limited facilities and connect along the Naga-Lagonoy 69kV transmission line via tap connection.

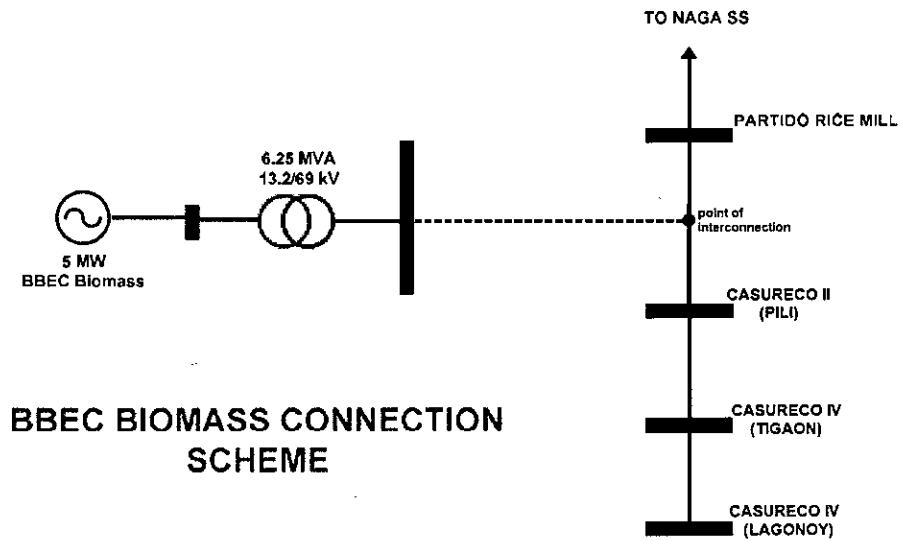
The said dedicated point-to-point limited facilities will require the construction of a substation and a 1.7 km 69 kV line utilizing 336.4 MCM ACSR, which shall connect the plant to the 69 kV line of NGCP.

In particular, BBEC proposes to transmit its generated power to the NGCP Luzon Grid via tap connection to the NGCP Naga-Lagonoy 69 kV transmission line, through the construction and installation of the following dedicated point-to-point limited transmission facilities:

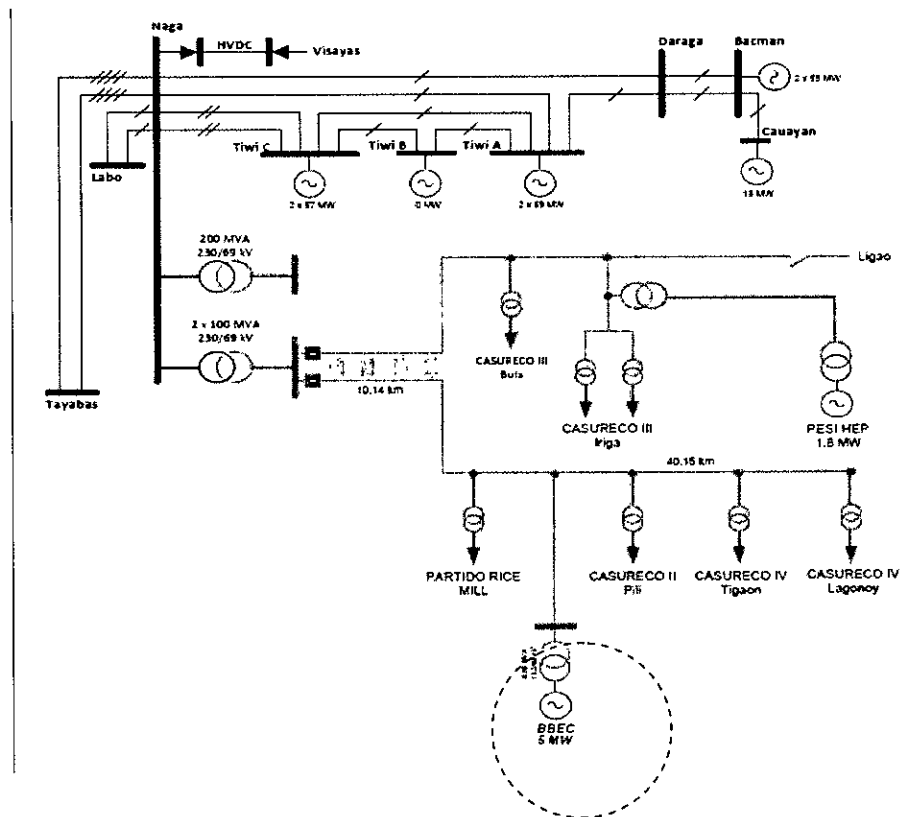
- (i) A switching station near Tower 113 of NGCP Naga-Lagonoy 69 kV Line;
- (ii) 69 kV transmission line with an approximate length of 1.7 km using 336.4 MCM ACSR; and

- (iii) A substation equipped with 6.25 MVA Power Transformer at the BPP site.

The diagram of the connection scheme is shown below:



The existing Naga-Lagonoy 69 kV Line is 50 km in length and is using 336.4 MCM ACSR conductor. The Point of Interconnection (POI) will be at Tower 113 of NGCP Naga-Lagonoy 69 kV Line. Moreover, the NGCP line is currently serving the loads of Partido Rice Mill, Camarines Sur II Electric Cooperative, Inc. (CASURECO II) and Camarines Sur IV Electric Cooperative, Inc. (CASURECO IV), as shown in the figure below:



Need for the Project

As stated in the Application and as manifested during the hearing, the dedicated point-to-point limited facilities will be utilized by BBEC's Biomass Power Plant to connect and deliver its generated power to the Luzon Grid through the NGCP Naga-Lagonoy 69 kV transmission line.

Project Rationale

The subject facilities are necessary for the power plant to deliver its generated power to the Luzon Grid.

Result of the System Impact Study (SIS) conducted by a Third Party

As provided under existing regulations, BBEC engaged the services of Full Advantage Philippines International, Inc., to conduct a System Impact Study (SIS) to determine the technical feasibility of connecting the Biomass Power Plant to the Luzon Grid.

Overall, the Third Party Impact Study concluded that the entry of the 5 MW Biomass Power Plant of BBEC to the Luzon Grid is technically feasible.

On 01 February 2015, NGCP released its Final Review Report on the Third Party System Impact Study. Based on the said report, the full capacity of the Biomass Power Plant can be integrated to the Luzon Grid.

Thereafter, a Facility Study was likewise conducted on the Biomass Power Plant and was approved by NGCP on 09 December 2015.

Option/Alternative Considered

Based on the Third Party Impact Study, there was no other connection scheme considered. Likewise, BBEC stated in its Application that the NGCP Naga-Lagonoy 69 kV line is the closest transmission line from its power plant.

Technical Configuration

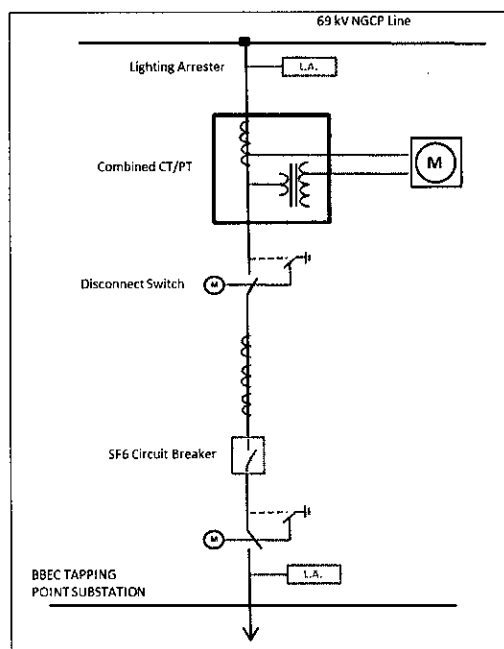
In order for BBEC to dispatch its generated power to the grid, it should connect its Biomass Power Plant to the Luzon Grid. By default, NGCP is mandated by law to connect generation companies, distribution utilities and other users requiring transmission services. However, Section 9(f) of the EPIRA gives the generation company the option to develop, own and operate their dedicated point-to-point limited facilities, to wit:

“x x x. A generation company may develop and own or operate dedicated point-to-point limited transmission facilities that are consistent with the TDP: Provided, that such facilities are required only for the purpose of connecting to the transmission system, and are used solely by the generating facility, subject to prior authorization by the ERC: x x x.

Hence, the application.

The single line diagram shown below will illustrate BBEC's compliance with the requirements of NGCP in its Facility Study and SIS.

Single Line Diagram



The point of connection will be at the NGCP's Naga-Lagonoy 69 kV Line where the 1.7 km 69 kV line, utilizing 336.4 MCM ACSR, is connected.

The connection point is controlled by a disconnect switch. In addition, the switchyard is equipped with surge arresters, instrument transformers, protective relays and its accessories which are all compliant with the requirements of NGCP.

The substation at the biomass plant consists of a 6.25 MVA power transformer, circuit breaker, disconnect switches, and other protective equipment.

BBEC complied with the standards in equipment grounding and the requirements in communication and Supervisory Control and Data Acquisition (SCADA) for monitoring and control.

As witnessed during the ocular inspection, the Commission's Inspection Team confirmed that the metering point of BBEC's Biomass Power Plant is located near the connection point, which is compliant with Section 9.2.1 of the Philippine Grid Code (PGC), requiring the following:

"Section 9.2.1.1 The metering point between the Grid and User System shall be at the Connection Point".

Technical and Financial Capability

BBEC submitted insufficient proof of its technical capability as to the operation and maintenance of the dedicated point-to-point facility. Thus, the Commission recommends that NGCP undertake the operation, service and maintenance of the dedicated facility involving, among others, periodic inspection of the point-to-point interconnection facilities and regular assessment of poles and wire conditions, subject to applicable charges.

NGCP, by default, is mandated by law to connect generation companies, distribution utilities and suppliers requiring transmission services. As such, NGCP, as sole provider of transmission services, has the technical capability to operate and maintain the subject facility.

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BBEC claimed that it has the financial capability to undertake the development and construction of the dedicated point-to-point limited line. Its financial capability will be assessed in the application of BBEC for Certificate of Compliance (COC) to ensure that the Applicant is compliant with the financial qualifications set forth in the Financial Guidelines for Generation Companies.

Project Cost

The total estimated cost of the proposed project is PhP46,395,048.79 covering all the facilities to be constructed by BBEC.

It is worthy to note that the estimated cost is only for the purpose of computing the applicable permit fee.

It should also be emphasized that the aforementioned amounts are not necessarily the fair market value that should be used when the subject assets are actually transferred to TransCo/NGCP.

Although the Applicant filed for FIT eligibility with the DOE, the application is yet to be approved. Thus, in the event that the same becomes FIT eligible, the cost of the dedicated point-to-point limited facilities that is included in the approved FIT Rate shall be considered once the asset is transferred to TransCo/NGCP:

- If the fair market value is higher than the facilities' cost incorporated in the determination of the FIT, TransCo/NGCP shall pay the difference between the said cost and the fair market value.
- If the fair market value is lower than the facilities' cost incorporated in the determination of the FIT, the asset shall be treated as Contribution in Aid of Construction (CIAC). NGCP shall maintain a separate account of these amounts and the assets should not appear in its rate base or in the asset appraisal.

Prescribed Fees

Permit fee for the authority to construct the subject project is prescribed under Commonwealth Act No. 146, as amended, for the reimbursement of the expenses of the Commission in evaluating the case based on its total project cost, computed as follows:

$$\begin{aligned} \text{Permit Fee} &= \frac{\text{Total Project Cost} \times 0.75}{100} \\ &= \frac{\text{PhP}46,395,048.79 \times 0.75}{100} \\ \text{Permit Fee} &= \text{PhP}347,962.87 \end{aligned}$$

WHEREFORE, the foregoing premises considered, Bicol Biomass Energy Corporation (BBEC) is hereby **AUTHORIZED** to develop and own dedicated point-to-point limited facilities to connect its 5 MW Biomass Power Plant (BPP) to the Luzon Grid, subject to the following conditions:

- The National Grid Corporation of the Philippines (NGCP) shall operate and maintain the subject dedicated point-to-point limited facilities subject to applicable charges;
- The subject facilities shall be developed and constructed in accordance with the System Impact Study (SIS) and Facility Study (FS) requirements so as not to result in the degradation of NGCP's transmission system;
- The dedicated point-to-point limited facilities shall be used solely by the generating facility;
- The metering point shall be at the connection point in accordance with the Philippine Grid Code (PGC); and

- Any portion of the dedicated point-to-point limited facilities required for competitive purposes or to connect any other user, ownership of the same shall be transferred to TransCo/NGCP at a fair market price subject to optimization. In determining the fair market price, the cost of the facility as incorporated in the determination of Feed-in-Tariff (FIT) shall also be considered in the event that the generation company be FIT eligible.

Relative thereto, BBEC shall be required to pay the permit fee amounting to **Three Hundred Forty-Seven Thousand Nine Hundred Sixty-Two and 87/100 Pesos (PhP347,962.87)**, computed based on Section 40 (g) of Commonwealth Act No. 146 and the Revised Schedule of ERC Fees and Charges.

SO ORDERED.

Pasig City, 31 August 2017.

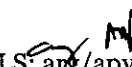
JOSE VICENTE B. SALAZAR*
Chairman and CEO


ALFREDO J. NON
Commissioner


GLORIA VICTORIA C. YAP-TARUC
Commissioner


JOSEFINA PATRICIA A. MAGPALE-ASIRIT
Commissioner


GERONIMO D. STA. ANA
Commissioner

LS: /apv

ROS: /lljr/fgod

* The Chairman was suspended as per Decision of the Office of the President (OP-DC Case No. 17-D-094) dated 02 August 2017.

Copy Furnished:

1. **Atty. Avelino V. Sales Jr.**
Sales and Associates
Counsel for Applicant BBEC
2/F, DECA Corporate Center
Panganiban Drive, Naga City
2. **Bicol Biomass Energy Corporation (BBEC)**
New San Roque, Pili, Camarines Sur
3. **Office of the Solicitor General**
134 Amorsolo Street, Legaspi Village, Makati City
4. **Commission on Audit**
Commonwealth Avenue, Quezon City
5. **Senate Committee on Energy**
GSIS Building, Roxas Boulevard, Pasay City
6. **House Committee on Energy**
Batasan Hills, Quezon City
7. **Office of the Municipal Mayor**
Pili, Camarines Sur
8. **Office of the LGU Legislative Body**
Pili, Camarines Sur
9. **Office of the Municipal Mayor**
Lagonoy, Camarines Sur
10. **Office of the LGU Legislative Body**
Lagonoy, Camarines Sur
11. **Office of the City Mayor**
City of Naga, Camarines Sur
12. **Office of the LGU Legislative Body**
City of Naga, Camarines Sur
13. **Office of the Provincial Governor**
Province of Camarines Sur
14. **Office of the LGU Legislative Body**
Province of Camarines Sur
15. **National Grid Corporation of the Philippines (NGCP)**
Quezon Avenue corner BIR Road, Diliman, Quezon City
16. **Regulatory Operations Service (ROS)**
Energy Regulatory Commission
17th Floor, Pacific Center Building
San Miguel Avenue, Pasig City